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U.S. Patent Application Serial No. 10/747,646  
Attorney's Docket No. RIC99067

**REMARKS**

In the non-Final Office Action, the Examiner rejects claims 1-10 and 15-20 under 35 U.S.C. § 102(e) as being anticipated by Erickson et al. (U.S. Patent 6,882,765); rejects claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Chiu et al. (U.S. Patent Pub. No. 2002/0063916) in view of Pan (U.S. Patent 7,274,869); and rejects claims 12-14 under 35 U.S.C. § 103(a) as being unpatentable over Chiu et al. in view of Pan and further in view of Erickson. Applicant traverses these rejections.

By way of the present amendment, Applicant has amended claims 1, 6, 15 and 16 to improve form. No new matter has been added. Claims 1-20 remain pending.

Claims 1-10 and 15-20 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Erickson et al. Applicant respectfully traverses this rejection.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach every aspect of the claimed invention either expressly or impliedly. Any feature not taught must be inherently present. In other words, the identical invention must be shown in as complete detail as contained in the claim. See M.P.E.P. § 2131. Applicant respectfully submits that Erickson et al. does not disclose or suggest the features recited in claims 1-10 and 15-20.

Independent claim 1 is directed to a method for responding to a failure in a network including a router and an optical cross-connect system (OXC), the method comprising: detecting the failure in the router; sending a signal from the router to the OXC, where the signal indicates the failure; causing a working port of the OXC to directly connect to a protection port of the router in response to detection of the signal;

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and transmitting data from the router to the OXC via the protection port. Applicant respectfully submits that Erickson et al. does not disclose or suggest this combination of features.

For example, Erickson et al. do not disclose or suggest causing a working port of the OXC to directly connect to a protection port of the router in response to detection of the signal, as now recited in claim 1. Regarding the previously recited feature of “causing a working port of the OXC to connect to a protection port of the router,” the Office Action (page 3) states “(See Col. 23 lines 28-41, fig. 17b i.e. fig. 17b illustrates that after the router(1502) detects a failure in one of the links(1702), the router(1502) sends a signal to the OXC(1054), as a result, the OXC working port(1541B) connects to the router protection port(1522))”. Applicant submits that neither these sections nor any other sections of Erickson et al. disclose or suggest this feature.

Col. 23, lines 28-41, of Erickson which describes Fig. 17B, discloses:

Referring now to FIG. 17B, the client 1502 and the optical cross-connect switch 1504 after being signaled, now know that a connection failure in link 1506A' has occurred. The optical cross-connect switch 1504 and the client 1502 each switch from the pair of full duplex links 1506A and 1506A' over to the protection connection 1508 and its pair of full duplex links 1518 and 1518'. The client 1502 internally switches the connection from port 1521A to its protection port 1522. The optical cross-connect 1504 internally switches the connection from port 1531A to its protection port 1532 ending the optical paths 1551 and 1551' and establishing optical paths 1651 and 1651' respectively through the optical switch fabric 1312 between its protection port 1532 and port 1541B.

As shown in Fig. 17B, this section of Erickson et al. discloses connecting a working port of an OXC (1541B) to a protection port of the OXC (1532), where the protection port of the OXC (1532) is directly connected to a protection port of a router (1522). As Erickson

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et al. discloses directly connecting a protection port of the OXC to protection port of the router, Erickson et al. cannot disclose or suggest causing a working port of the OXC to directly connect to a protection port of the router, as now required by claim 1. Therefore, Applicant respectfully submits that Erickson et al. does not disclose or suggest causing a working port of the OXC to directly connect to a protection port of the router in response to detection of the signal, as now recited in claim 1.

For at least these reasons, Applicant respectfully submits that Erickson et al. does not anticipate the features of claim 1. Accordingly, withdrawal of the rejection and allowance of claim 1 are respectfully requested.

Claims 2-5 depend from claim 1. Therefore, Applicant submits that these claims are allowable for at least the reasons as set forth above with respect to claim 1. Accordingly, withdrawal of the rejection and allowance of claims 2-5 are respectfully requested.

Independent claim 6 now recites features similar to, but of different scope than, claim 1. For reasons similar to those discussed above with respect to claim 1, Applicant submits that claim 6 is not anticipated by Erickson et al. Accordingly, withdrawal of the rejection and allowance of claim 6 are respectfully requested.

Claims 7-10 depend from claim 6. Therefore, Applicant submits that these claims are allowable for at least the reasons as set forth above with respect to claim 6. Accordingly, withdrawal of the rejection and allowance of claims 7-10 are respectfully requested.

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Independent claim 15 now recites features similar to, but of different scope than, claim 1. For reasons similar to those discussed above with respect to claim 1, Applicant submits that claim 15 is not anticipated by Erickson et al. Accordingly, withdrawal of the rejection and allowance of claim 15 are respectfully requested.

Claims 16-20 depend from claim 15. Therefore, Applicant submits that these claims are allowable for at least the reasons as set forth above with respect to claim 15. Accordingly, withdrawal of the rejection and allowance of claims 16-20 are respectfully requested.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chiu et al. in view of Pan.

Independent claim 11 is directed to an optical cross-connect system comprising: a spare port for transmitting low priority data from a router; and a working port for transmitting high priority data from a primary router, where the working port is connected to the router in response to a failure of the primary router. Applicant respectfully submits that Chiu et al. and Pan do not disclose or suggest this combination of features.

For example, Chiu et al. and Pan do not disclose or suggest that the working port is connected to the router in response to a failure of the primary router, as recited in claim 11. Regarding this feature, the Office Action (page 8) states “(See Paragraph 47, fig. 3,6 i.e. fig. 3 illustrates that the OXC(OXCB) for communicating with a redundant or protection router(100B2) incase of a failure with a working router(100B1)).” Applicant respectfully disagrees with the Examiner's interpretation of Chiu et al.

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Regarding the Examiner's interpretation of Fig.3, Chiu et al. does not disclose or suggest in the description of Fig. 3 that the protection router 100<sub>B2</sub> connects to a working port of OXC<sub>B</sub> (which the Examiner alleges corresponds to the recited OXC) in response to a failure of router 100<sub>B1</sub>, as would be required by claim 11.

At paragraph [0047], which describes Fig. 6, Chiu et al. discloses:

The failure of router 100<sub>B1</sub>, at step 600, may also be detected by the redundant router 100<sub>B2</sub>, which is at the same node as the failed router, at step 605, as depicted in the flowchart in FIG. 6. In step 610, router 100<sub>B2</sub> sends a request to OXC<sub>B</sub> that it connects to directly, also at node B, to restore the connection to office A by setting up a new lightpath link to routers 100<sub>A</sub>. In step 615, the signaling mechanism may forward the request from OXC<sub>B</sub> to OXC<sub>A</sub> to complete all necessary switching to establish the new lightpath. Then, in step 620, upon restoration of the lightpath link to office/node A, routing in the IP layer will automatically discover the new link between 100<sub>A</sub> and 100<sub>B2</sub>, and router 100<sub>B1</sub> will be replaced by router 100<sub>B2</sub> for all IP traffic through office/node B, and restoration may be complete at step.

This cited portion of Chiu et al. discloses "setting up a new light path" between router 100<sub>A</sub> (located in node A) and a protection router 100<sub>B2</sub>, when router 100<sub>B1</sub> fails. Applicant submits that Chiu et al. does not disclose or suggest that "setting up a new light path" involves a working port of OXC<sub>B</sub> (which corresponds to the recited OXC) being connected to another router in response to the failure of the primary router, as would be required by claim 11. Therefore, Chiu et al. does not disclose or suggest that a working port is connected to the router in response to a failure of the primary router, as required by claim 11.

For at least these reasons, Applicant respectfully submits that neither Chiu et al. nor Pan, whether taken alone or in combination, discloses or suggests the features of

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claim 11. Accordingly, withdrawal of the rejection and allowance of claim 11 are respectfully requested.

Claims 12-14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chiu et al. and Pan in further view of Erickson et al.

Claims 12-14 depend from claim 11. Applicant respectfully submits that Erickson et al. does not remedy the deficiencies of Chiu et al. and Pan as discussed above with respect to claim 11. Therefore, Applicant submits that these claims are allowable for at least the reasons as set forth above with respect to claim 11. Accordingly, withdrawal of the rejection and allowance of claims 12-14 are respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of the present application and a timely allowance of the pending claims.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such assertions (e.g., whether a reference constitutes prior art, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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